IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATIONS Nos 45, 46 and 47 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT ON BEHLAF OF H L MAKWANA FOOD INSPECTOR

Versus

BHANUBHAI NARANBHAI PATEL

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Appearance:

MR KIRIT RAVAL for Petitioner

MR DK MODI for Respondents

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CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 27/06/2000

COMMON ORAL JUDGEMENT

Rule. Learned Advocate Mr. Kirit Raval for Learned Advocate Mr D.K. Modi appearing on behalf of respondents in all the three matters, waives service of the rule.

Criminal Revision Application No.45/2000 is filed by petitioner State of Gujarat against one Bhanubhai Naranbhai Patel and others with a prayer to quash and set

aside the order dated 10-12-99 passed by Learned J.M.F.C., Dholka in the proceedings of Criminal Misc. Application No. 75/99.

Criminal Revision Application No.46/2000 is filed by petitioner State of Gujarat against respondent, Vinodbhai R. Patel and other ten with a prayer to quash and set aside order dated 10-12-1999 passed by Learned J.M.F.C., Dholka in the proceedings of Criminal Misc. Application No.166/99.

Criminal Revision Application No.47/2000 is also filed by petitioner State of Gujarat against respondent Darshan Manubhai Parikh and others with a prayer to quash and set aside the order dated 10-12-1999 passed by Learned J.M.F.C., Dholka in the proceedings of Criminal Misc. Application No.74/99.

As common question of facts and law are involved in all the above three matters, all these three matters are heard together and are being disposed of by this common judgement.

The Food Inspector of Gandhinagar Division, inspected the godown of the respective respondents of the above stated matters for the purpose of carrying out his duties under the provisions of Prevention of Food Adulteration Act, 1954, (hereinafter referred to as "the Act"). That on inspection, samples were taken from the quantity stored in the godown of the goods (boiled rice) by the Food Inspector. Such samples were taken from the godown of each of the respondent of the above stated matters and were forwarded to Public Analyst so as to ascertain whether the quantity of the said boiled rice was fit for human consumption or not. It may also be noted that the Food Inspector also seized the goods stored in the godown of each of the respondent under the provisions of Section 10(4) of the Act so as to prevent the owner from using the same till the report of the Public Analyst is received. It further appears from the record that the Food Inspector intimated to the concerned Court - J.M.F.C., Dholka regarding seizure of the goods in the respective matters and further requested to dispose of the said goods as provided under Sub Section (5) of Section 11 of the Act. It also appears from the record of each of the matter that the respondent had given purshis to the Court of J.M.F.C., Dholka, requesting the Court to return the goods on the terms and conditions that such goods shall be reprocessed under the supervision of the Food Inspector to manufacture cattle feed and shall be disposed of accordingly. That during

the hearing of the said matters on the basis of claim made by the respondent of each of the matter for return of the goods as stated hereinabove, a purshis was filed by Learned APP on behalf of the Food Inspector declaring the fact that the prosecution has no objection if the goods are returned to the respondent owner on a condition that such goods shall be processed to manufacture cattle feed in the presence of the Food Inspector. It is also necessary to note at this stage that the Food Inspector, while effecting the seizure of the above stated goods under Section 10(4) of the Act, had taken bond for the value of total cost of the goods from each of the owner. Learned J.M.F.C., Dholka after considering the material produced on record and particularly the assurance given by each of the respondent (the owner of the goods) to abide by the conditions imposed by the court while returning the goods and purshis given by APP on behalf of the Food Inspector declaring no objection if such condition is imposed while returning the goods that owner shall reprocess the goods for manufacture of cattle feed in the presence of the Food Inspector, passed the impugned order in each matter directing to release the goods in favour of respondent of each of the matter on the condition that respondent shall reprocess the said goods to manufacture cattle feed in the presence of the Food Inspector and shall continue the security of bond furnished when the goods were seized. The Court also ordered that in the event of any breach of condition of order, the respondent shall be liable to prosecution under the provisions of the Act, if any initiated by the Food Inspector. That the said order is challenged by State of Gujarat in each of the above said proceedings of Criminal Revision Applications.

Learned APP, Mr.S.S.Patel at the stage of admission submitted that though the trial Court has imposed the condition that the goods shall be reprocessed in the presence of the Food Inspector, it is difficult to believe that the owners of the goods would practically comply with the condition. That the said goods might be reprocessed and might be offered for sale in the market, which would be injurious to the society as initially it was found that the goods i.e. boiled rice is not upto the mark for human consumption.

The submission urged on behalf of State of Gujarat by Learned APP could hardly be merited in the context of material produced on record. The impugned order was passed after hearing Learned APP appearing before Learned J.M.F.C. on the basis of the purshis filed by him on behalf of the Food Inspector to the

effect that the prosecution has no objection if the goods are returned to the owner by imposing the condition that the same shall be reprocessed to manufacture cattle feed in the presence of the Food Inspector. Under the circumstances, there cannot be a question that the Court should have ordered to destroy the goods as provided under Section 11(5)(ii) of the Act. It would be worthwhile to note that the Food Inspector has valued the goods seized from the respective respondent - owner at Rs.27,82,000/in Criminal Revision Application No.45/2000; at Rs.1,00,320/- in Criminal Revision Application No.46/2000; and at Rs.47,70,634/- in Criminal Revision Application No.47/2000 respectively. Considering the value of the goods which was seized by the Food Inspector and the purshis of no objection filed by the learned APP on behalf of the Food Inspector before the Trial Court, it is difficult to find that the impugned order in each of the matter is in any way illegal, unreasonable, unjust or improper. Under the circumstances, it is difficult to entertain any of the petitions as worth for consideration. As a result, all these three petitions stand rejected. Rule discharged in each of the matter.

27-6-2000 (A. K. Trivedi, J.)

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